

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN D. LAMBERTSON,
Plaintiff,
v.
G. D. LEWIS,
Defendant.

Case No. [12-cv-05122-JD](#)

**ORDER TO SEND PLAINTIFF
TWO SUBPOENAS; DENYING
MOTION FOR CONTEMPT**

Re: Dkt. No. 69

Plaintiff, a state prisoner, proceeds with a pro se civil rights complaint under 42 U.S.C. § 1983. Plaintiff alleges that three Doe defendants failed to protect him from an assault by other inmates. While this claim is sufficient to proceed plaintiff must provide the identities of the defendants for service. Plaintiff was informed that he may seek such information through the California Public Records Act or any other means available such as seeking reports from his central file concerning the incident. Plaintiff was also sent Court document subpoenas with instructions. Plaintiff was informed that he should fill out the subpoenas and return them to the Court so that the Clerk may issue the subpoena and the Marshal may serve it on the subpoenaed party. Plaintiff needs to fill in all of the necessary information, but must leave the signature line blank so that the Clerk may sign it. This is because as a pro se litigant, plaintiff needs the Court's Clerk to issue a subpoena. Fed. R. Civ. P. 45(a)(3).

Plaintiff has not returned the subpoenas to the Court but he did send to a non-party a subpoena to testify at a deposition that was unsigned by the Court's Clerk. Plaintiff also stated that the non-party should produce certain documents at the deposition.¹ Plaintiff's motion to

¹ He may have also sent document subpoenas that were unsigned by the Court's Clerk.

1 depose the non-party was denied. Plaintiff's pending motion to hold the non-party in contempt
2 (Docket No. 69) is denied as meritless.

3 The Court will send plaintiff two more document subpoenas to obtain the records he seeks.
4 **Plaintiff must follow the instructions below.** Plaintiff must **not** send the subpoena directly to
5 any party. He must fill out the forms and return them the Court. The subpoenas are to obtain
6 documents, they are not for any person to appear or testify at a deposition.

7 **CONCLUSION**

8 1. Plaintiff's motion for contempt (Docket No. 69) is **DENIED**.

9 2. As a pro se litigant, plaintiff needs the Court's Clerk to issue a subpoena. Fed. R. Civ.
10 P. 45(a)(3). Therefore, the Clerk shall send to plaintiff **2 blank document subpoena** forms
11 (subpoena duces tecum) for plaintiff to fill out and return to the Court so that the Clerk may issue
12 the subpoena and the Marshal may serve it on the subpoenaed party. Plaintiff needs to fill in all of
13 the necessary information, but must leave the signature line blank so that the Clerk may sign it.

14 **IT IS SO ORDERED.**

15 Dated: August 30, 2016

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JAMES DONATO
United States District Judge

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CERTIFICATE OF SERVICE

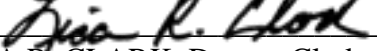
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 30, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

John D. Lambertson ID: V92821
Kern Valley State Prison
P.O. Box 5103
Delano, CA 93216

Dated: August 30, 2016

Susan Y. Soong
Clerk, United States District Court

By: 
LISA R. CLARK, Deputy Clerk to the
Honorable JAMES DONATO